

SECOND DIVISION

[G.R. No. 205090, October 17, 2016]

**GREENSTAR EXPRESS, INC. AND FRUTO L. SAYSON, JR.,
PETITIONERS, VS. UNIVERSAL ROBINA CORPORATION AND
NISSIN UNIVERSAL ROBINA CORPORATION, RESPONDENTS.**

D E C I S I O N

DEL CASTILLO, J.:

This Petition for Review on *Certiorari*^[1] seeks to set aside; a) the September 26, 2012 Decision^[2] of the Court of Appeals (CA) in CA-G.R. CV No, 96961 affirming the April 4, 2011 Decision^[3] of the Regional Trial Court (RTC) of San Pedro, Laguna, Branch 31 in Civil Case No. SPL-0969; and b) the CA's December 28, 2012 Resolution^[4] denying herein petitioners' Motion for Reconsideration.^[5]

Factual Antecedents

Petitioner Greenstar Express, Inc. (Grepistar) is a domestic corporation engaged in the business of public transportation, while petitioner Fruto L. Sayson, Jr. (Sayson) is one of its bus drivers,

Respondents Universal Robina Corporation (URC) and Nissin Universal Robina Corporation (NURC) are domestic corporations engaged in the food business. NURC is a subsidiary of URC.

URC is the registered owner of a Mitsubishi L-300 van with plate number WRN 403 (URC van).^[6]

At about 6:50 a.m. on February 25, 2003, which was then a declared national holiday,^[7] petitioner's bus, which was then being driven toward the direction of Manila by Sayson, collided head-on with the URC van, which was then being driven Quezon province-bound by NURC's Operations Manager, Renante Bicomong (Bicomong). The incident occurred along Km. 76, Maharlika Highway, Brgy. San Agustin, Alaminos, Laguna. Bicomong died on the spot, while the colliding vehicles sustained considerable damage.

On September 23, 2003, petitioners filed a Complaint^[8] against NURC to recover damages sustained during the collision, premised on negligence. The case was docketed as Civil Case No. SPL-0969 and assigned to Branch 31 of the RTC of San Pedro, Laguna. An Amended Complaint^[9] was later filed, wherein URC was impleaded as additional defendant.

URC and NURC filed their respective Answers,^[10] where they particularly alleged and claimed lack of negligence on their part and on the part of Bicomong.

After the issues were joined, trial proceeded. During trial, only Sayson was presented by petitioners as eyewitness to the collision.

Riding of the Regional Trial Court

On April 4, 2011, the RTC issued its Decision, which decreed thus:

During the trial on the merits, plaintiffs^[11] presented five witnesses namely Josephine Gadiaza, Miguel Galvan, SPO3 Ernesto Marfori, Fruto Sayson and Lilia Morales.

x x x x

Plaintiff Fruto Sayson testified that on that fateful day, he was driving the plaintiff passenger bus from Lucena City going to Manila at a speed of more or less 60 kilometers per hour when he met a vehicular accident at Barangay San Agustin, Alaminos, Laguna. He saw from afar an L-300 UV coming from the shoulder going on the opposite direction to Lucena City. Said vehicle was already near his bus when it (UV) managed to return to its proper lane, then hit and swerved his vehicle.- "He tried to prevent the collision by swerving to the right but it was too late. As a result, the left front portion of the bus was damaged while the front portion of the L-300 UV was totally wrecked- He and his conductor, one.Mendoza, managed to get out of the bus by forcibly opening the automatic door which was also damaged due to the impact After getting out of the bus, he looked for the driver of the L300 UV but he was informed by a bystander that he was thrown in a canal and already dead. For fear of possible reprisals from bystanders as experienced by most drivers involved in an accident, he boarded another bus owned by his employer. Before he left, he endorsed the matter to his conductor and line inspector. Thereafter, he reported to their office at San Pedro, Laguna. He executed a statement on the same day x x x and submitted the same to their operations department. He likewise testified that before the incident, he was earning P700.00 to P900.00 a day on commission basis and he drives 25 days in a month. However, after the incident, he was not able to drive for almost two months.

On cross-examination, it was established that the incident happened along the Maharlika Highway along Kilometer 72. There were no structures near the site of the incident, The highway has two lanes which can accommodate the size of the bus about 3 meters wide and a light vehicle. He was bound for Manila and had about ten passengers. He saw the L-300 UV on the shoulder of the opposite lane about 250 meters away from, his bus while he was driving [at] a speed of 60 kilometers per hour. He did not sense any danger when he saw the vehicle from afar. He cannot drive fast as there were five vehicles ahead of his bus. When the L-300 UV managed to return to its proper lane coming from the shoulder, it was heading directly towards his direction, at a distance of more or less five, meters away from his bus, He noticed that the L-300 UV was running at full speed as he saw dust clouds. "The point of impact

happened on his lane. He tried to swerve his bus to prevent the impact but he admitted that at his speed, it was difficult for him to maneuver his vehicle

Investigator SPO3 Ernesto Marfori of the Alaminos Police Station testified that at about 7:00 in the morning, he received a report from the Barangay Chairman of a vehicular accident that occurred at Brgy. San Agustin, Alaminos, Laguna. He proceeded to the site with SPO2 Rolando Alias. Upon arrival at the scene of the accident, he attended to the victim, but found him dead inside the L- 300 UV. He came to know later that he was Renante Bicomong. He immediately called up his office and requested that funeral services for the dead man be arranged. Thereafter, he photographed the damaged vehicles (Exhibits "F" and sub-markings) and interviewed some witnesses. He made a sketch depicting the damages suffered by both vehicles (Exhibit "D-2"), the L-300 UV at the front portion (Exhibit "D-4") while the bus at the left side of its front portion (Exhibit "D-3"). Based on the sketch he prepared, the impact happened almost at the right lane which was the bus lane (Exhibit "D-6"). He likewise noticed some debris also found at the bus lane. He was able to interview the bus conductor and a fruit store owner in [sic] the names of Apolinar Devilla and Virgilio Adao. He did not see the driver of the bus at the scene of the accident and he was told that he had left the place. Based on, his investigation, the possible cause of the accident was the swerving to the left lane [by] the driver of the L-300 UV which resulted in the encroaching of the bus' lane. He reduced his findings into writing in a Report dated February 28, 2003 (Exhibits "D" and sub-markings).

On cross-examination, the witness admitted that he was not present when the vehicles collided. The entries he made in the blotter report were mainly based on the accounts of the witnesses he was able to interview who however did not give their written statements. When he arrived at the scene of the accident, the L-300 UV was already on the shoulder of the road and it was totally wrecked. According to reports, the van spun around when it was hit causing the metal scar found on the road.

On the other hand, the defendants^[12] presented three witnesses: its employees Alexander Caoleng and John Legaspi and deceased Renante Bicomong's widow, Gloria Bicomong. These witnesses were presented to prove that deceased Bicomong was acting in his personal capacity when the mishap happened on February 25, 2003 as that day had been declared an official holiday and the L-300 UV he was driving had not been issued to him, among others.

Alexander Caoleng, HR. Manager of defendant NURC, testified that deceased Bicomong worked as the Operations Manager of defendant NURC until his death as evidenced by a Certificate of Employment dated December 9, 2008 (Exhibit "I"). His last assignment was in First Cavite Industrial Estate (FCEB). He died in a vehicular accident in Alaminos, Laguna on February 25, 2003 which was declared a holiday by virtue of Proclamation No. 331 (Exhibit "2"). Despite having been issued his own

service vehicle (Exhibits "3", "4" and "5"), he used the L-300 UV which was not officially issued to him but in the name of Florante Soro-Soro, defendant NURC's Logistics Manager at that time (Exhibits "7" and "B"). The said vehicle was used mainly to transport items coming from their office at Pasig to Cavite and vice versa (Exhibit "9").

John Legaspi, Project Manager of defendant NURC, testified that he was first assigned in its Cavite Plant in 1999 with deceased Bicomong as his immediate supervisor being the Production Manager then. He last saw him in the afternoon of February 24, 2003 at about 6:00 pm when they had a short chat. He (Bicomong) was then transferring his things from his executive vehicle which was a Toyota Corolla to the L-300 UV which was a company vehicle. He (Bicomong) shared that he would go home to Quezon Province the following day (February 25) to give money to his daughter. He knew that his trip to Quezon was not work-related as February 25, 2003 was declared a holiday. Besides, there exists no plant owned by defendant NURC in the provinces of Quezon, Laguna or Bicol as attested to by the General Manager of defendant NURC in a Certification to that effect (Exhibit "11").

On cross-examination, he distinguished the use of an executive vehicle assigned to an executive officer for his personal use and the company vehicle which was supposed to be for official use only.

Finally, Gloria Bicomong, widow of deceased Reynante Bicomong testified that she knew that her husband was going home to Calendaria (sic), Quezon on February 25, 2003 because he informed their daughter. He was on his way home when he met a vehicular-accident in Alaminos, Laguna which claimed his life. She was informed about the accident involving her husband by a high school friend who was also traveling to Quezon at that time. She filed a criminal complaint at Alaminos, Laguna but it was dismissed for reasons unknown to her. She likewise filed a civil complaint for damages before the Regional Trial Court of Lucena City docketed as Civil Case No. 2:103-135.

On cross-examination, she narrated that aside from the Toyota Corolla service of her husband, he would use the L-300 UV whenever he had to bring bulky things home. As far as she can recall, he used the L-300 UV about 5 times.

After an evaluation of the foregoing testimonies and documentary evidence of the parties, the court had [sic] arrived at the following findings and conclusions:

Plaintiff has no cause of action and cannot recover from the defendants even assuming that the direct and proximate cause of the accident was the negligence of the defendant's employee Renato Bicomong.

Pursuant to Article 2184 of the New Civil Code, the owner of a motor vehicle is solidarily liable with his driver if at the time of the mishap, the owner was in the vehicle and by the use of due diligence could have presented (sic) the misfortune; if the owner is not in the motor vehicle,

the provision of Article 2180 is applicable. The defendants being juridical persons, the first paragraph of Article 2184 is obviously not applicable.

Under Article 2180, "employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry. "In other words, for the employer to be liable for the damages caused by his employee, the latter must have caused the damage in the course of doing his assigned tasks or in the performance of his duties" (Yambao vs. Zuñiga, G.R. No: 146173, December 11, 2003)

In this case, it is beyond cavil that the deceased Renante Bicomong [sic] was not in the performance of his duty on that fateful day of February 25, 2003. In the first place that day was a holiday; there was no work and it was not shown that he was working as indeed his work assignment is operations manager of the company's plant in Cavite while the accident happened while he was in Alaminos, Laguna on his way home to Candelaria, Quezon. Secondly, as an operations manager, he was issued an executive car for his own use, a Toyota Corolla vehicle and he merely preferred to use the L-300 UV when going home to his family in Quezon. Even assuming that the company allowed or tolerated this, by itself, the tolerance did not make the employer liable in the absence of showing that he was using the vehicle in the performance of a duty or within the scope of his assigned tasks. But as clearly relayed by defendant's witnesses, defendants have no business or plant in Quezon. The L-300 vehicle was for the hauling of items between their Pasig and Cavite offices and was merely borrowed by Bicomong in going to Candelaria, Quezon on that day.

The accident having occurred outside Renante Bicomong's assigned tasks, defendant employers cannot be held liable to the plaintiffs, even assuming that it is the fault of defendants' employee that was the direct and proximate cause of their damages.

However, the question of whose fault or negligence was the direct and proximate cause of the mishap is material to the resolution of defendants' counterclaim.

The rule is that the burden of proof lies on him who claims a fact (Federico Ledesina vs. NLRC, G.R. No. 175585, October 19, 2007). Therefore, to be able to recover in their counterclaim, the defendants must prove by preponderance of evidence that the direct and proximate cause of their losses was the fault of the plaintiff-driver.

Defendants were not able to present any witness as to how the mishap occurred. Their witnesses were limited to proving that Renante Bicomong was not in the performance of his assigned task when the incident happened.

A reading of their answer would reveal, that their attribution of fault to the plaintiff-driver is based only on the point of impact of the two